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6 Attorneys for Defendant Homecomings Financial, LLC erroneously sued as
Homecomings Financial Network

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 | Rosa Galindo; Maria Galindo,) Case No. 3:07-CV-3991 MJJ

12 | Plaintiffs,

13 || vs.

14 Financo Financial, Inc.; Patrick
15 Patchin; Ahmed Yama Asefi; Aaroon
16 Sadat and Nazia Nawabzada;
17 Countrywide Bank, N.A.;
18 Countrywide Financial Corp.;
Homecomings Financial Network;
Commonwealth Land Title Company;
Joseph Esquivel; Pamela Spikes; and
Does 1-100.

Defendants.

Case No. 3:07-CV-3991 MJJ

**DEFENDANT HOMECOMINGS
FINANCIAL, LLC'S NOTICE OF
MOTION AND MOTION TO
DISMISS CLAIMS IN PLAINTIFFS'
SECOND AMENDED COMPLAINT**

[RULE 12(b)(6)]

DATE: February 26, 2008

TIME: 9:30 a.m.

PLACE: Courtroom 11

21 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

22 PLEASE TAKE NOTICE that on February 26, 2008, at 9:30 a.m., or as soon
23 thereafter as the matter may be heard before Judge Martin J. Jenkins at the United
24 States District Court, Northern District of California, located at 450 Golden Gate
25 Avenue, San Francisco, California 94102, Defendant Homecomings Financial, LLC
26 erroneously sued as Homecomings Financial Network (“Homecomings”) will, and
27 hereby does, move to dismiss the 1) Second Claim for Negligence; 2) Third Claim
28 for violation of the Truth In Lending Act (“TILA”); 3) Fourth Claim for violation of

1 the Real Estate Settlement Procedures Act ("RESPA"); 4) Ninth Cause of Action for
2 Violation of the California Consumers Legal Remedies Act ("CLRA"); and 5)
3 Twelfth Claim for Civil Conspiracy from Plaintiffs Rosa and Maria Galindo's
4 Second Amended Complaint.

5 This motion is made pursuant to RULE 12(b)(6) of the FEDERAL RULES OF
6 CIVIL PROCEDURE because Plaintiffs': 1) Second Claim for Negligence; 2) Third
7 Claim for violation of TILA; 3) Fourth Claim for violation of RESPA; 4) Ninth
8 Cause of Action for Violation of CLRA; and 5) Twelfth Claim for Civil Conspiracy
9 fail to state facts upon which relief can be granted.

10 This motion is based upon this notice of motion and motion, the
11 accompanying memorandum of points and authorities, the request for judicial
12 notice, the pleadings and papers on file in this action, and on such further oral and
13 documentary evidence as may be presented at the hearing of this motion.

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15 DATED: January 15, 2008

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17 By /s/ Frederick A. Haist

18 E. SCOTT PALMER
19 FREDERICK A. HAIST
20 PALMER, LOMBARDI & DONOHUE LLP
Attorneys for Homecomings Financial, LLC
erroneously sued as Homecomings Financial
Network

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